THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3242 OF 2006

Dated: 21-02-2006

Between

Malladi Venkataramayya,

S/o. Narsimha Sastry,

Customs Inspector,

R/o. D.No.54-1-14,

Jagannaickpur, Kakinada,

East Godavari District.

… PETITIONER

AND

Kakinda Municipal Corporation,

Rep. by its Commissioner,

Kakinada, East Godavari District

and another.

… RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in attempting to demolish the building bearing Door No.54-1-14 situated at Jagannaickpur, Kakinada, East Godavari District belonging to the petitioner for widening the roads without following the procedure prescribed in law as illegal and arbitrary.

The Learned counsel for the petitioner submits that the petitioner is the owner of the aforementioned premises in Kakinada town and municipality. The Kakinada municipality has been recently upgraded as Municipal Corporation. In view of the traffic congestion and to have free flow of traffic the Kakinada Municipal Corporation has decided to widen the roads, for which they have identified certain roads in the entire Kakinada municipal corporation. Learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondents and he has no objection for the said programme if his lands are acquired and
if proper compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for the structures or the lands and without following due process of law,
are threatening to demolish the existing structures of the petitioner for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 or 147 of the Municipal Corporation Act (for short ‘the Act’).

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,

this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess him without following due process of law under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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V. ESWARAIAH, J

February 21, 2006

DSK